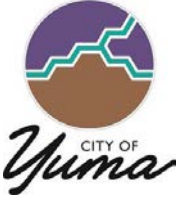


**Notice of Public Hearing of the
Hearing Officer of The City of Yuma**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Hearing Officer of the City of Yuma and to the general public that the Hearing Officer will hold a hearing open to the public on April 8, 2021 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:

	Agenda Hearing Officer Public Hearing City Hall Council Chambers One City Plaza Thursday, April 8, 2021 9:30 a.m.
---	--

Consistent with the March 13, 2020 Arizona Attorney General informal opinion Relating to Arizona's Open Meeting Law and COVID-19, in order to protect the public and reduce the chance of COVID-19 transmission, the meetings of the City of Yuma Hearing Officer will be conducted with limited public, in-person access, consistent with social distancing requirements.

City Hall Council Chambers will be open with limited public access.

Public comment regarding any **agenda** item can be provided in written format to the Hearing Officer secretary at email address planning@yumaaz.gov no later than 15 minutes prior to the start of the scheduled meeting. Comments received timely will be read into the record when the referenced agenda item is discussed.

CALL TO ORDER

CONSENT CALENDAR – All items listed under the consent calendar will be approved by one motion. There will be no separate discussion of these items unless the Hearing Officer or a member of the audience wishes to speak about an item.

APPROVAL OF MINUTES

- March 11, 2021

APPLICATIONS TO BE CONSIDERED

1. **VAR-33872-2021:** *This is a request by Anne-Marie Mirante and Richard Fay for a Variance to reduce the side setbacks from 7' to 3'5", the rear yard setback from 10' to 7'4", and increase the allowable height for accessory structures from 15' to 18' for two RV shade structures and two storage trailers in the Recreational Vehicle Subdivision (RVS) District, for the property located at 9732 E. 38th Lane, Yuma, Arizona.*
2. **VAR-33894-2021:** *This is a request by Ronald Pailliotet, on behalf of the City of Yuma, for a variance to reduce the minimum square feet of lot area per multi-family unit from 2,000 square feet to 600 square feet and to eliminate the requirement for on-site parking for a proposed rooftop restaurant in the Old Town (OT) District, for the property located at 46 W. 2nd Street, Yuma, AZ.*

3. **VAR-33941-2021:** *This is a request by Guy C. Gale, on behalf of GCG Investments LLC, to reduce the front yard setback from 20' to 0' to allow a fence along the front property line, in the Light Industrial District/Infill Overlay (L-I/O) District, for the property located at 953 S. 3rd Avenue, Yuma, AZ.*

ADJOURN

A copy of the agenda for this meeting may be obtained at the office of the City Clerk at City Hall, One City Plaza, Yuma, Arizona, 85364, during business hours, Monday through Friday, 8:00 A.M. to 5:00 P.M. In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of Yuma does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Division, One City Plaza, PO Box 13012, Yuma, AZ 85366-3012; (928) 373-5125 or TTY (928) 373-5149

**Hearing Officer Meeting Minutes
March 11, 2021**

A meeting of the City of Yuma's Hearing Officer was held on March 11, 2021, at City Hall Council Chambers, One City Plaza, Yuma, AZ.

HEARING OFFICER in attendance was Pamela Walsma.

CITY OF YUMA STAFF MEMBERS present included Kenneth McCoy, Assistant City Attorney; Alyssa Linville, Assistant Director/Zoning Administrator; Erika Peterson, Assistant Planner and Alex Marquez, Administrative Assistant.

Walsma called the meeting to order at 9:30 a.m.

CONSENT CALENDAR

Walsma approved the minutes of December 10, 2020.

PUBLIC HEARINGS

VAR-33601-2021: *This is a request by Oscar Peralta, on behalf of Amador Ordonez Orozco, for a Variance to reduce the front yard setback from 20' to 9' for a garage and carport in the Low Density Residential (R-1-6) District, for the property located at 2232 W. 16th Place, Yuma, Arizona.*

Erika Peterson, Assistant Planner, summarized the staff report recommending **APPROVAL**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Oscar Peralta, 1912 W. 17th Street, Yuma, Arizona, was present and available for questions.

OPEN PUBLIC COMMENT

None

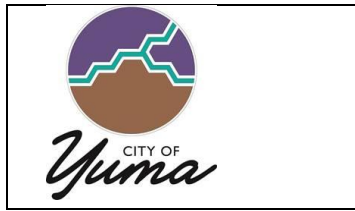
DECISION

Walsma granted the variance, subject to the Conditions of Approval in Attachment A, finding that the four criteria of Yuma City Code §154-03.04(D)(1) had been met.

Walsma adjourned the meeting at 9:38 a.m.

Minutes approved and signed this _____ day of _____, 2021.

Hearing Officer



**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Erika Peterson**

Hearing Date:

APRIL 8, 2021

Case Number:

VAR-33872-2021

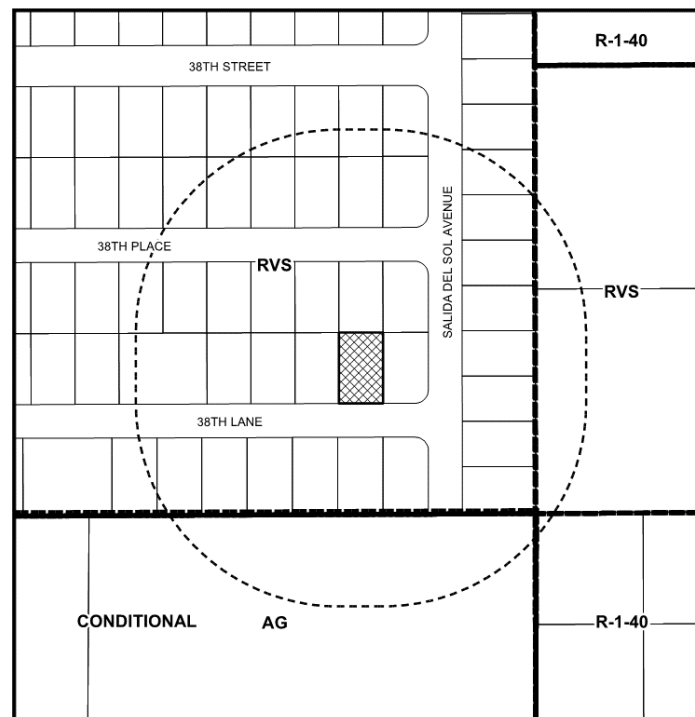
Project

Description/Location:

This is a request by Anne-Marie Mirante and Richard Fay for a Variance to reduce the side setbacks from 7' to 3'5", the rear yard setback from 10' to 7'4", and increase the allowable height for accessory structures from 15' to 18' for two RV shade structures and two storage trailers in the Recreational Vehicle Subdivision (RVS) District, for the property located at 9732 E. 38th Lane, Yuma, Arizona.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
North	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
South	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
East	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
West	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential

Location Map:



Prior site actions: Annexation: Ord. O98-67 (09/17/1998); Subdivision: Vista Del Sol Unit 5 (01/09/2004); Rezone: Z98-026 (November 10, 1998); Code Enforcement Case No. BS006158- 2020

Staff recommendation: Staff recommends **DENIAL** of the request to reduce the side yard setbacks from 7 feet to 3 feet 5 inches, the rear yard setback from 10 feet to 7 feet 4 inches, and to increase the allowable height for accessory structures from 15 feet to 18 feet for two RV shade structures and two storage trailers in the Recreational Vehicle Subdivision (RVS) District, because it does not meet §154-.03.04 of the Yuma City Code. Although Staff is not recommending a variance for the aforementioned items, if a variance is granted Staff recommends that the variance be conditioned to include the conditions listed in Attachment A.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? (If "YES", attach vicinity map showing locations of those variances)			Yes.
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
VAR-12685-2016	Reduce the rear yard setback from 10 feet to 6 feet to allow a 459 square foot awning/carport for parking.	Approval	Approved
VAR-12369-2015	Reduce the side yard setback from 7 feet to 6 feet for a 220 square foot carport.	Denial	Approved
VAR-11540-2015	Reduce the rear yard setback from 10 feet to 7 feet for an awning/carport.	Approval	Approved
VAR-2488-2012	Reduce the rear yard setback from 10 feet to 4 feet and the side yard setback from 7 feet to 3 feet 6 inches for three sheds ranging in size, shed 1- 164 square feet, shed 2- 198 square feet, and shed 3- 96 square feet.	Denial	Approved with modifications
VAR-2487-2012	Reduce the rear yard setback from ten feet to seven feet for a 212 square foot shed.	Denial	Approved
HO2009-001	Reduce rear yard setback from 10 feet to 3 feet 8 inches and reduce the side yard setback from 7 feet to 3 feet 3 inches.	Denial	Approved
HO2008-001	Reduce the 7 foot side yard setback to 5 feet.	Denial	Approved
MV2006-008	Decrease the side yard setback from 7 feet to 5 feet 8 inches and the rear yard setback from 10 feet to 8 feet for a 154 square foot shade structure.	Approval	Approved

Staff Analysis: The subject property, located within the Vista Del Sol Unit 5 Subdivision, is located approximately 70 feet west of E. 38th Lane and S. Salida Del Sol Avenue. This property is a typical shape, as are most of the other lots in the subdivision and is approximately 6,825 square feet. The setbacks for the Recreational Vehicle Subdivision (RVS) District are as follows: the front yard setback is 10 feet, the side yard setbacks are 7 feet, and the rear yard setback is 10 feet. Additionally, the maximum height for accessory structures is 15 feet. Per the City of Yuma Zoning Code access to parking and one parking space are required to be paved.

Currently, the property features two RV's, two RV shade structures, and two mobile metal storage containers in the rear, one measuring 192 square feet and the other measuring 176 square feet, both of which encroach into the rear and side yard setbacks. The applicant also constructed the two RV shade structures that encroach into the side yard setbacks, one measuring 780 square feet and the other measuring 836 square feet. Additionally, both structures exceed the maximum height for accessory structures, measuring at 18 feet in height. The applicant did not apply for a building permit prior to the construction of the structures.

With this request, the applicant is requesting a variance to reduce the side yard setbacks from 7 feet to a minimum of 3 feet 5 inches for the placement of the RV shade structures and the rear yard setback from 10 feet to 4 feet 7 inches for the placement of the storage containers.

There are no special circumstances regarding this property in relation to its size, shape, or elevation. The issue was brought forward to Code Enforcement as a complaint from a neighbor who was concerned about one of the storage structures being utilized as a living unit and the large pipe structure in the side yard setbacks.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) *"There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district."*

Is this statement correct for this application?

☐ Yes ☒ No

Applicant Response: *"The properties on E. 38th Lane as well as most of the properties in Vista Del Sol consist of stick built or manufactured homes. All these homes have OUTSIDE STRUCTURES (shade, casitas, storage units, Car & RV shade structures). Most of these do not comply with the Zone or Fire Codes set by the City."*

Staff Analysis: This lot has the same dimensions, topography, and characteristics as neighboring properties in the subdivision. There are no special circumstances, conditions, or unique physical features that apply to this property that do not apply to most other properties in the district. The applicant placed the two storage containers in the side and rear yard setbacks and also hired someone to construct the two RV shade structures and placed them in the side yard setbacks. The applicant states in the narrative that all the homes in the subdivision have outside structures which most do not comply with codes set by the City of Yuma.

B) *"The special circumstance was not created or caused by the property owner or applicant."*

Is this statement correct for this application?

☐ Yes ☒ No

Applicant Response: *"When we decided to have our lot improved, we studied all the properties and duplicated some of their set ups, however we set our structures farther away from all our property lines. Some of our neighbor's properties have structures from a few inches to a few feet from their property lines **not in compliance.**"*

Staff Analysis: There are no special circumstances that apply to this property. The property owner created this issue when they failed to receive proper authorization for the construction/placement of the structures. Relying on the placement of neighboring structures is not a reasonable justification for the granting of a variance.

C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”

Is this statement correct for this application?

☐ Yes

☒ No

Applicant Response: *“When it was time to choose the material to construct the RV shade covers, we gave a lot of time and consideration to our neighbors and to the esthetics of the covers. We chose a pitched roof with Terracotta color to blend with the roof tops of the houses and beige walls to blend with color of the houses. All this to PRESERVE THE ENJOYMENT and CONTINUITY of the NEIGHBORHOOD!”*

Staff Analysis: This variance is not necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity under identical zoning designations. There are many illegal accessory structures within this subdivision that are encroaching into the side and rear yard setbacks. There are no special circumstances that apply to the property, the applicant has the ability to develop the property following the development standards set forth in the Recreational Vehicle Subdivision (RVS) District section of the Zoning Code.

D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”

Is this statement correct for this application?

☐ Yes

☒ No

Applicant Response: *“When we decided upon the style of our construction, we hired a PROFESSIONAL CONTRACTOR (who has done many such projects) to build our shade covers. Upon request from the City of Yuma we hired a structural engineer to consult with and inspect the construction, some correction will be made to CONFIRM our shade covers **will not be** Detrimental to any Person(s) Residing, or Working, in the Vicinity, Adjacent to Property, to the Neighborhood or to the Public Health, Safety, and General Welfare.*

The neighbors on both sides of our property will benefit from the shade Created by our Structures during the morning and afternoon sun.

We are very responsible people: we enjoy a clean and tidy surrounding. I am a retire nurse and Richard is a retired food salesman that is highly organized and had to return to work to help pay for the EXTRA EXPENCE of our shade structures.

We would love to be allowed to continue the improvements on our lot in order to spend our last years in peace and serenity.”

Staff Analysis: While there have been several variance requests that have been approved for reduced side and rear yard setbacks, the structures were much smaller in size compared

to the two RV shade structures. The applicant is requesting to reduce the side yard setbacks from 7 feet to 3 feet 5 inches and the rear setback from 10 feet to 4 feet 7 inches. Additionally, a couple of the neighbors have voiced their concern in regards to the construction, use, placement of the structures on the property. The granting of this variance will be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety and general welfare as the structures are not aesthetically compatible with the surrounding area.

2. Are any of the adjacent property owners opposed to this request? Yes.

Public Comments Received: Yes, see Attachment C.

Name:	David and Cheryl Ries			Contact Information:						
Method of Contact:	Phone		FAX		Email	X	Letter		Other	
<p><i>"Attached is the "view" from our patio of the north side of the lot in this case. It appears that the west "storage trailer" may have been made as a living unit. Our only question is whether the red awnings are so close to the brick wall that any serious rain runoff might undermine the integrity of the wall."</i></p>										

External Agency Comments: See Attachment D.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: March 30, 2021

Final staff report delivered to applicant on: April 1, 2021

- ☐ Applicant agreed with all of the conditions of approval on:
- ☐ Applicant did not agree with the following conditions of approval: (list #'s)
- ☒ The conditions of approval were e-mailed to the applicant and a response was not received.

Attachments

A	B	C	D	E	F
Conditions of Approval	Site Plan	Public Comments	Agency Notifications	Agency Comments	Site Photos

Prepared By:
Erika Peterson
Assistant Planner



Date: 4/1/2021

Erika.Peterson@YumaAZ.gov (928)373-5000, x3071

Approved By:
Alyssa Linville,
Assistant Director Community Development



Date: 04/01/2021

ATTACHMENT A
CONDITIONS OF APPROVAL

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

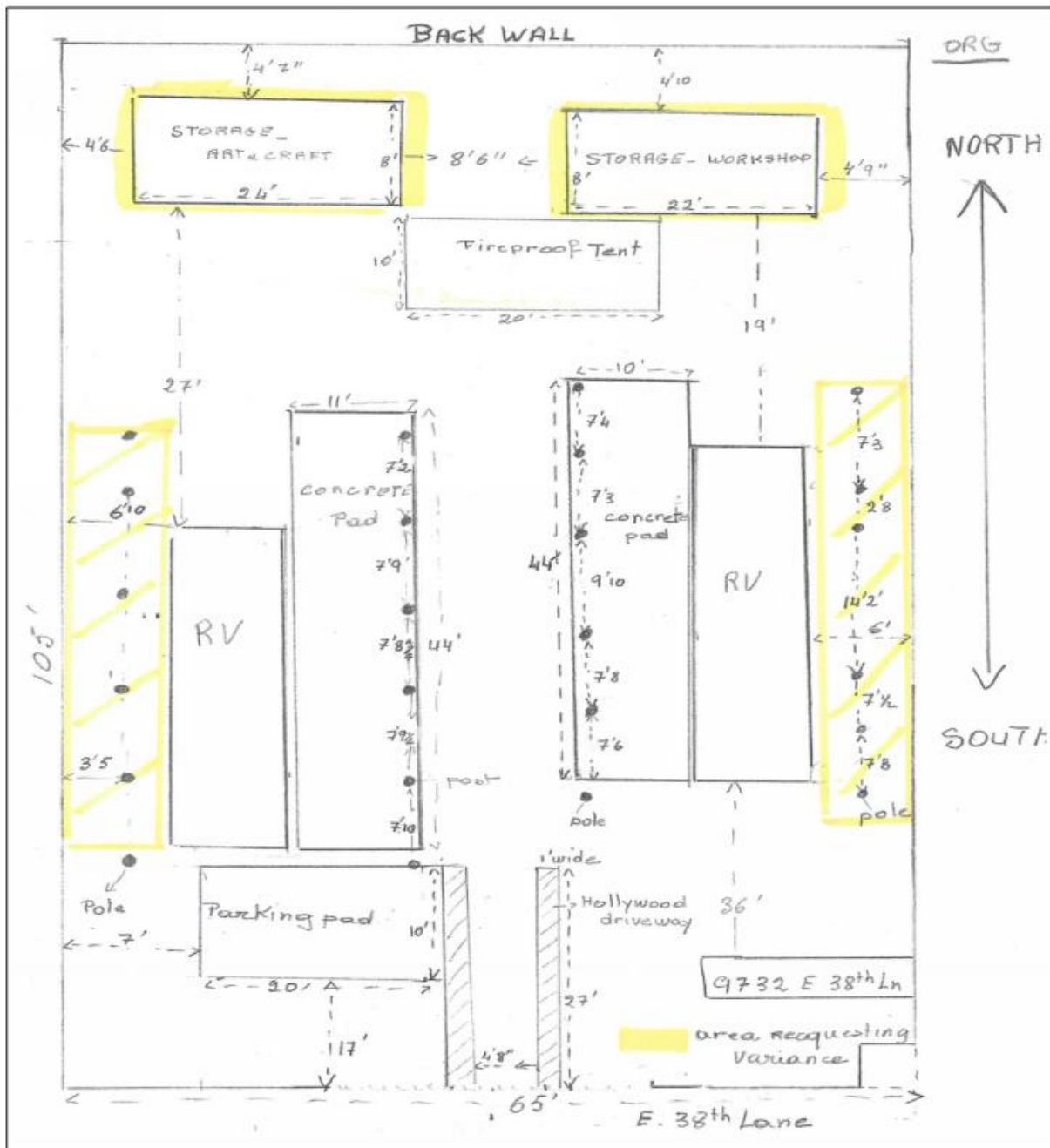
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

Community Planning: Erika Peterson, Assistant Planner, (928) 373-5000 x 3071:

4. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
5. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
6. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B SITE PLAN



SITE PLAN



Prepared by: EP

Checked by:



Date: 2-18-2021

Revised:

Revised:

Case #:

VAR-033872-2021

ATTACHMENT C
PUBLIC COMMENTS

From: dandcries@gmx.com
Sent: Saturday, March 20, 2021 11:17 AM
To: Peterson, Erika S. - Assistant Planner
Subject: Case #var33872-2021
Attachments: IMG_20210320_103247533.jpg

Attached is the "view" from our patio of the north side of the lot in this case. It appears that the west "storage trailer" may have been made as a living unit. Our only question is whether the red awnings are so close to the brick wall that any serious rain runoff might undermine the integrity of the wall. David and Cheryl Ries
9731 E 38th Pl



ATTACHMENT D
AGENCY NOTIFICATIONS

- Legal Ad Published: The Sun (03/19/21)
- 300' Vicinity Mailing: (03/10/21)
- Site Posted on: (04/01/21)
- 34 Commenting/Reviewing Agencies Noticed: (03/10/21)
- Neighborhood Meeting Date: N/A
- Hearing Date: (04/08/2021)
- Comments Due: (03/22/21)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	3/11/2021	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	3/10/2021	X		
Yuma County Planning & Zoning	YES	3/12/2021		X	
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	3/10/2021	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	YES	3/10/2021	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	3/11/2021	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	3/15/2021			X
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	3/22/2021	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT E
AGENCY COMMENTS

☒ COMMENT ☐ NO COMMENT

Enter comments below:

If this application were to be in Yuma County, a variance wouldn't be needed, since side setbacks for awnings are 3 feet, and detached accessory structures can be placed 3 feet from the rear property line and 3 feet from the side property lines.

DATE: 03-12-2021 NAME: Javier Barraza TITLE: Senior Planner
AGENCY: Yuma County, DDS, Planning & Zoning Division
PHONE: (928) 817-5000
RETURN TO: Erika Peterson
Erika.Peterson@YumaAZ.gov

Conditions of approval must be written in the form of a formal condition for use in Planning and Zoning staff reports. Your conditions will be used verbatim. If you also have a comment, please indicate below.

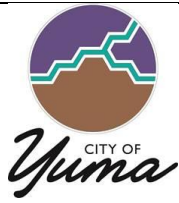
☐ Condition(s) ☐ No Condition(s) ☒ Comment

Enter conditions here: fire will defer to Building Safety's comments

DATE: 3/15/21 NAME: Kayla Franklin TITLE: Fire Marshal
CITY DEPT: Fire
PHONE: 928-373-4865
RETURN TO: Erika Peterson
Erika.Peterson@YumaAZ.gov

ATTACHMENT F
SITE PHOTOS





**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Alyssa Linville**

Hearing Date:

April 8, 2021

Case Number: VAR-33894-2021

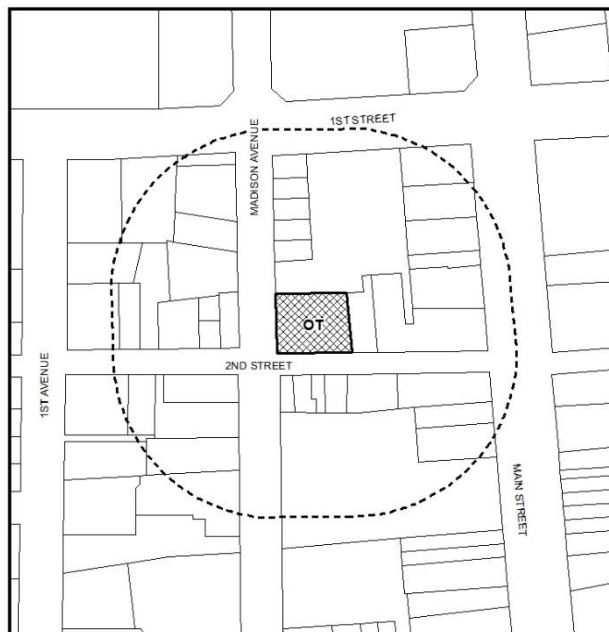
Project

Description/Location:

This is a request by Ronald Pailliotet, on behalf of the City of Yuma, for a variance to reduce the minimum square feet of lot area per multi-family unit from 2,000 square feet to 600 square feet and to eliminate the requirement for on-site parking for a proposed rooftop restaurant in the Old Town (OT) District, for the property located at 46 W. 2nd Street, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Old Town/Bed and Breakfast Overlay/ Historic/Infill Overlay (OT/BB/H/IO)	Vacant	Mixed Use
North	Old Town/Bed and Breakfast Overlay/ Historic/Infill Overlay (OT/BB/H/IO)	Public Parking	Mixed Use
South	Old Town/Bed and Breakfast Overlay/ Historic/Infill Overlay (OT/BB/H/IO)	Various Commercial Uses	Mixed Use
East	Old Town/Bed and Breakfast Overlay/ Historic/Infill Overlay (OT/BB/H/IO)	Jimmie Dee's	Mixed Use
West	Old Town/Bed and Breakfast Overlay/ Historic/Infill Overlay (OT/BB/H/IO)	Multi-Tenant Office(s)	Mixed Use

Location Map:



Prior site actions: None

Staff recommendation:

Staff recommends **APPROVAL** of the request to reduce the minimum square feet of lot area per multi-family unit from 2,000 square feet to 600 square feet and to eliminate the requirement for on-site parking for a proposed rooftop restaurant in the Old Town (OT) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?
(If "YES", attach vicinity map showing locations of those variances)

NO

Staff Analysis:

The subject property, located within the Brinley Avenue Historic District, is located at the northeast corner of 2nd Street and Madison Avenue. The property measures approximately 12,171 square feet and is currently undeveloped. Until its demolition in 2010, the site featured the Gandolfo Annex, an individually listed, historic structure, which was constructed in 1905. The Gandolfo Annex was an example of a mixed-used development, featuring a hotel and commercial space. This development relied solely upon the public parking areas utilized by most other businesses in the area.

The developer is proposing to construct a three-story, mixed-use project, featuring 20 Class-A apartments, retail space, ground level parking garage and a roof-top restaurant. This variance request is to reduce the number of on-site parking stalls required and increase the allowable density for residential units.

The proposed increase in residential density is not out of character for downtown areas throughout the country and will only further the efforts of revitalizing our historic downtown. Mixed-use development has proven itself as an attractive form of housing for individuals of all ages, providing residents with easy access to retail services and other amenities. Historically, the Gandolfo Annex serviced as this mixed-use attraction, providing visitors with access to lodging and retail services. This proposed variance will allow the re-establishment of a once thriving mixed-use development. Additionally, the development would have no more of an impact on parking, than what had previously existed when the Gandolfo Annex was in operation.

Recently, the City Council indicated their desire to see an increase in residential and mixed-use development within the downtown area; this proposed development project is in keeping with these goals and objects.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) "There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district."

Is this statement correct for this application?

☒ Yes

☐ No

Applicant Response: *The special circumstance stems from the current situation in Historic downtown Yuma where there are no comparable low-rise mixed-use buildings with Class A apartments for market-rate lease, therefore in order to construct this style of building a*

variance request to the current development standards applicable to the OT zoning district is required.

In addition, due to the grade and elevation changes of the property as it relates to the roadway and sidewalk, significant grading modifications will likely need to be made to the site in order to make the property developable and accessible from the public way. The costs of these modifications are considered prohibitive without the requested relief from the strict application of the zoning code to allow for greater densities than currently permitted.

Staff Analysis: The subject property was originally developed and subdivided prior to the establishment of any zoning regulations. Upon it's initial development in 1905, the property featured a two-story, 17,000 square foot building, which was utilized for various commercial purposes and as a hotel annex. This building was an example of mixed-use development featuring residential and commercial space. Throughout the years, the property relied on various off-street and off-site parking options; including the public parking areas located within the area. This parking condition was legalized within the zoning code as no on-site parking is required for structures built on or prior to November 1, 1995. Unfortunately, in 2010 the building was demolished and therefore lost this parking exception.

B) "The special circumstance was not created or caused by the property owner or applicant."

Is this statement correct for this application?

☒ Yes

☐ No

Applicant Response: *The absence of a comparable low-rise mixed use building in the vicinity of this property was not created or caused by the property owner or applicant.*

Further, the grade and elevation issues associated with the property are a result of the demolition of an inhabitable structure that was creating a public nuisance on the property. Portions of the soil were required to be removed as part of the demolition of the structure, which lowered the grade of the property to below the sidewalk, roadway and adjacent properties.

Staff Analysis: The special circumstance was not created by the property owner or applicant. The historic structure was forced to be demolished as a result of poor soil conditions, inadequate renovation efforts, and an earthquake which rendering much of the building unsalvageable. The property owner explored numerous options and methods for redevelopment prior to making the decision to demolish the historic structure.

C) "The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations."

Is this statement correct for this application?

☒ Yes

☐ No

Applicant Response: *The granting of this variance request will allow for the preservation of property rights enjoyed by other property owners/developers in the Historic Yuma Downtown area such as the recently constructed Home2Suites by Hilton and the Hilton Garden Inn.*

Staff Analysis: If the historic structure were still standing, a developer could have converted the building for both residential and commercial purposes (a similar use to the hotel annex and commercial space) without the need to provide for off-street parking. However, because the building was demolished, the developer must meet current code requirements as it relates to on-site parking and residential density allowances. The developer intends on providing parking for the residential component of the project through the construction of a ground floor parking garage. However, for the proposed commercial space, 600 square feet of ground level retail space and a roof-top restaurant, the developer would like to utilize the public parking utilized by most commercial businesses within the area.

D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”

Is this statement correct for this application?

☒ Yes ☐ No

Applicant Response: *The granting of the variance will not be materially detrimental to any person(s) residing or working, in the vicinity, to adjacent property, to the neighborhood or to the public health, safety and general welfare. Further, by putting the property to a productive use, it is anticipated that the granting of the requested variance relief will materially benefit the adjacent properties, the neighborhood and the public’s health, safety and general welfare.*

Staff Analysis: The granting of this variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare. The granting of this variance will allow for the construction of a mixed-use building; a use similar to what existing on the site for a number of years. In fact, the impact should be less than the prior development, as this proposed project will rely less on the available public parking through the construction of parking garage.

2. Are any of the adjacent property owners opposed to this request? Yes.

Public Comments Received:

Name:	Jerry and Leonor Stewart				Contact Information:					
Method of Contact:	Phone	<input checked="" type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input type="checkbox"/>	Letter	<input type="checkbox"/>	Other	<input type="checkbox"/>
Mr. and Mrs. Stewart expressed their concern with parking request as they do not believe the existing public parking could accommodate an increase in usage.										

Name:	George and Neely Tomkins				Contact Information:					
Method of Contact:	Phone	<input type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input checked="" type="checkbox"/>	Letter	<input type="checkbox"/>	Other	<input type="checkbox"/>
Inquired about the parking and the potential users for the site. Plan on attending the public meeting.										

Name:	Jim D. Smith				Contact Information:					
Method of Contact:	Phone	<input type="checkbox"/>	FAX	<input type="checkbox"/>	Email	<input type="checkbox"/>	Letter	<input checked="" type="checkbox"/>	Other	<input type="checkbox"/>
See Attachment F.										

External Agency Comments: None Received.

Neighborhood Meeting No Meeting Required.
Comments:

Proposed conditions delivered to applicant on: April 5, 2021

Final staff report delivered to applicant on: April 5, 2021

<input checked="checked" type="checkbox"/>	Applicant agreed with all of the conditions of approval on: April 5, 2021
<input type="checkbox"/>	Applicant did not agree with the following conditions of approval: (list #'s)
<input type="checkbox"/>	(If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)

Attachments

A	B	C	D	E	F	G
Conditions of Approval	Site Plan	Conceptual Images	Agency Notifications	Agency Comments	Public Comments	Aerial Photo

Prepared By:

Alyssa Linville,
Assistant Director
Community Development



Date: April 5, 2021

Alyssa.Linville@yumaaz.gov

(928)373-5000, ext. 3037

ATTACHMENT A
CONDITIONS OF APPROVAL

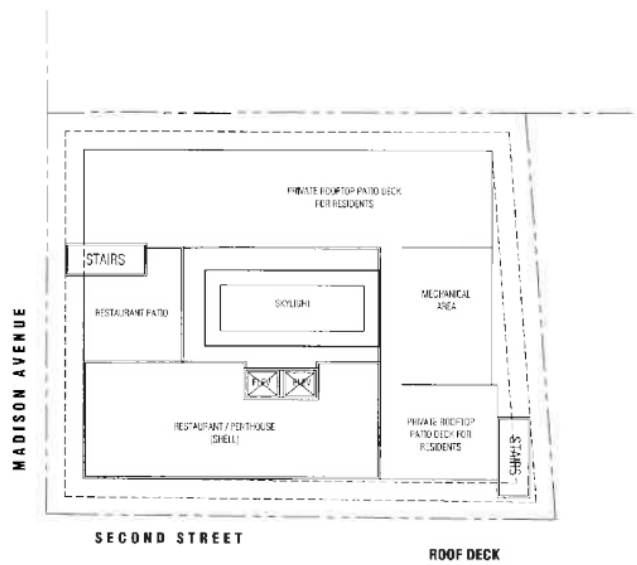
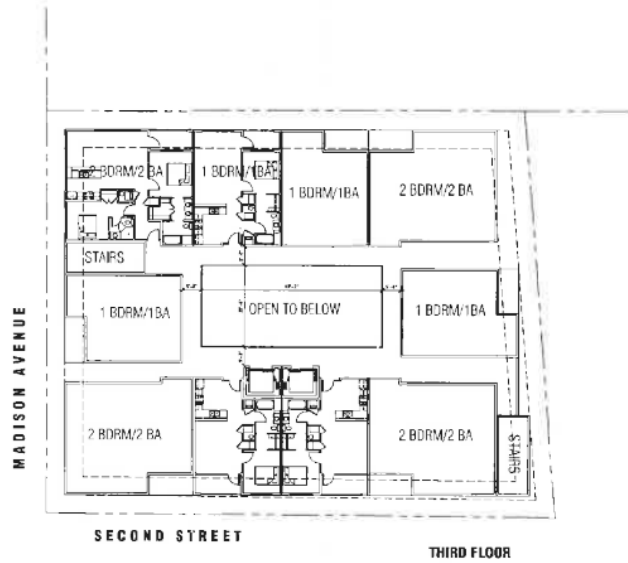
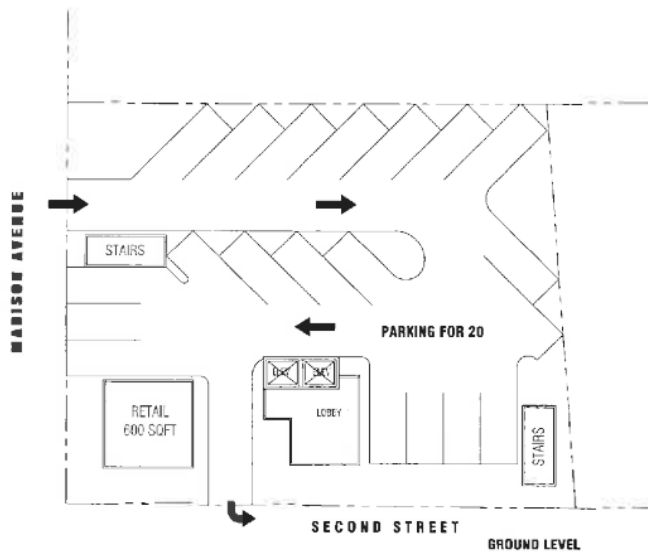
The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

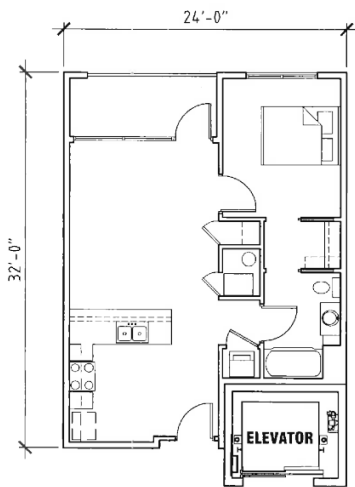
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.
4. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
5. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
6. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

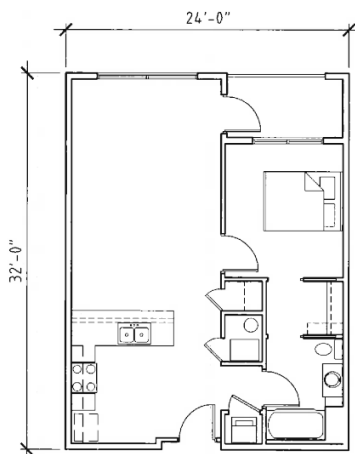
ATTACHMENT B SITE PLAN



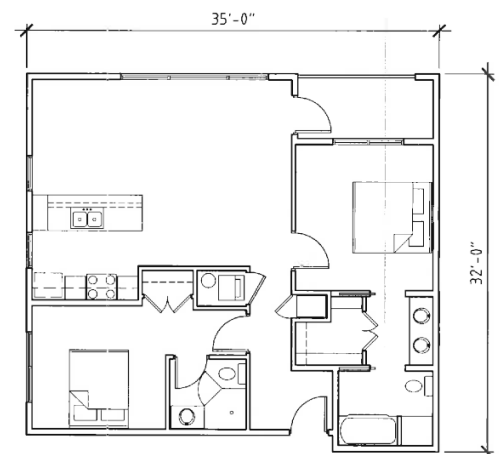
ATTACHMENT C CONCEPTUAL IMAGES



1 BDRM / 1 BA 612 SQFT



1 BDRM / 1 BA 680 SQFT



2 BDRM / 2 BA 986 SQFT

ATTACHMENT D
AGENCY NOTIFICATIONS

- Legal Ad Published: The Sun (MM/DD/YY)
- 300' Vicinity Mailing: (MM/DD/YY)
- Site Posted on: (MM/DD/YY)
- 34 Commenting/Reviewing Agencies Noticed: (MM/DD/YY)
- Neighborhood Meeting Date: (MM/DD/YY)
- Hearing Date: (MM/DD/YY)
- Comments Due: (MM/DD/YY)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	Yes	03/11/21	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	Yes	03/10/21	X		
Yuma County Planning & Zoning	NR				
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	Yes	03/10/21	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	Yes	03/10/21	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	Yes	03/11/21	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	Yes	03/16/21			X
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	Yes	03/22/21	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT E
AGENCY COMMENTS

Conditions of approval must be written in the form of a formal condition for use in Planning and Zoning staff reports. Your conditions will be used verbatim. If you also have a comment, please indicate below.

☐ Condition(s) ☐ No Condition(s) ☒ Comment

Enter conditions here: Must meet all fire and life safety code requirements for new use, and maintain adequate fire department access.

DATE: 3/16/21 NAME: Kayla Franklin TITLE: Fire Marshal
CITY DEPT: Fire
PHONE: 928-373-4865
RETURN TO: Alyssa Linville
Alyssa.Linville@YumaAZ.gov

**ATTACHMENT F
PUBLIC COMMENTS**

LAW OFFICES OF JIM D. SMITH

221 S. Second Avenue, Yuma, Arizona 85364
(928) 783-7809
jimmiedeesmith@gmail.com

Via email: Alyssa.Linville@YumaAz.gov
Alyssa Linville
City of Yuma
One City Plaza
Yuma, AZ 85364

Re: Variance Case #: VAR-33894-2021
46 W. Second Street

Ms. Linville:

I am the owner of the Properties at 38 W. Second St. (Jimmie Dee's Bar) and 49 W. Second St. (TerHark Accounting Office). My properties are immediately next door to and across the street from this proposed development.

Please lodge this Letter as an **Objection** to the Pending Variance Application filed by the City of Yuma which seeks to reduce the minimum square feet of lot area for a multi-family development from 2,000 sq ft to 600 sq ft and an objection to any development of this property with reduced on site parking.

My Objection is based upon Parking and the Proposed high density multi story, multi-family development on the Property. The Assessor's Office shows that the size of this lot is **12,171 sq ft**. The maximum residential units this land area would accommodate is only 6 multi-family residential units in the Old Town Zoning District.

Parking in this area is already a problem. This proposed development of a high density multi story, multi-family residential building (20 units on one small 12,171 sq ft lot) **is not** a compatible use with the Businesses in this Area.

The property for which the variance is requested (46 W. 2nd St.) is next door to the Bar -Night Club, Jimmie Dee's Bar at 38 W. Second St. which I own which and night time noise is an issue.

The Commission and City Council are also requested to take into consideration that this area (one Block from Main Street) is re-developing into part of the Yuma Down Town Entertainment District.

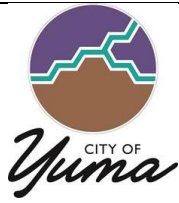
Very truly yours,



Jim D. Smith
President - Somerton Farming Co.
President - Yuma Building Corp

ATTACHMENT G
AERIAL PHOTO





**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Amelia Griffin**

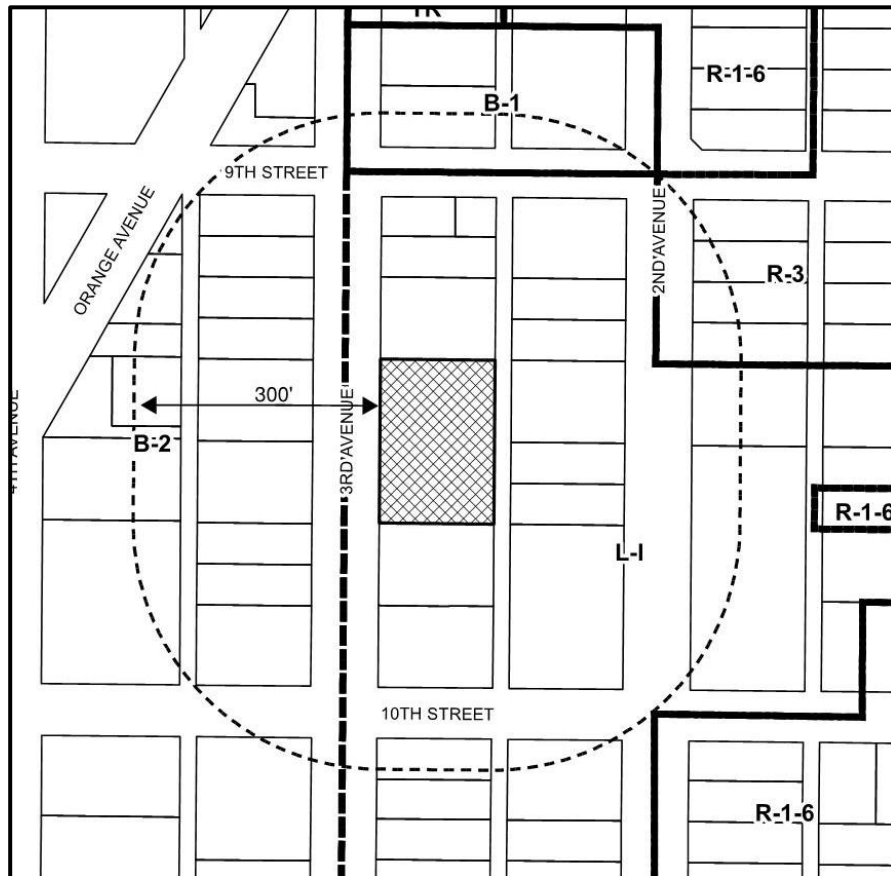
Hearing Date: April 8, 2021

Case Number: VAR-33941-2021

Project Description/Location: This is a request by Guy C. Gale, on behalf of GCG Investments LLC, to reduce the front yard setback from 20' to 0' to allow a fence along the front property line, in the Light Industrial District/Infill Overlay (L-I/IO) District, for the property located at 953 S. 3rd Avenue, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Light Industrial (L-I/IO)	Gale Transfer Inc.	Mixed Use
North	Light Industrial (L-I/IO)	Storage Yard	Mixed Use
South	Light Industrial (L-I/IO)	O&M Electric	Commercial
East	Light Industrial (L-I/IO)	Statewide Express / Residential	Mixed Use
West	Light Industrial (L-I/IO)	Storage Yard / Residential	Commercial

Location Map:



Prior site actions: Annexation: Ordinance #449 (May 29, 1946); Subdivision: Speese Addition (January 20, 1925); Pre-Development Meeting: PDM-33634-2021 (February 2, 2021)

Staff recommendation:

Staff recommends **DENIAL** of the request to allow a chain link fence along the front property line in the Light Industrial/Infill Overlay (L-I/O) District.

Staff recommends **APPROVAL** of the request to allow a solid wall along the front property line in the Light Industrial/Infill Overlay (L-I/O) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?				Yes
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action	
BA93-30	Reduce the street side yard setback from 20' to 4.5' along 2 nd Avenue and reduce the minimum street side yard setback from 20' to 0' along 10 th Street.	Denial	Approved the request to reduce setback along 2 nd Avenue. Denied the request to reduce the setback along 10 th Street.	

Staff Analysis:

The subject property is located approximately 200' south of the northeast corner of 9th Street and 3rd Avenue. The property was developed under Yuma County's jurisdiction in 1940 and annexed into the City in 1946. Currently, the property features an approximately 14,900 square foot warehouse and a storage yard. Historically, the property has been utilized as a moving company and storage for large wooden shipping containers.

The property is zoned Light Industrial/Infill Overlay (L-I/O) District and is subject to a minimum 20' setback from any public or private street right-of-way. Additionally, all activities not within an enclosed building shall be screened by a minimum 6' high solid wall or fence, however, that said walls shall not be located in any required setback.

With this request, the applicant is proposing a new 100 linear foot 6' tall chain link fence with gates along 3rd Avenue. According to the applicant, a 20' setback would restrict the use of the property and make it difficult for large semi-trucks to turn into the property with enough clearance. Additionally, the property was recently vandalized and the addition of the chain link fence along the front property line would restrict public access to the property and containers.

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) *“There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.”*

Is this statement correct for this application?

☒ Yes

☐ No

Applicant Response: *“Building a fence with a 20’ setback would restrict the use of the property and make it impossible for our large semi-trucks to turn into the property with enough clearance. Without a fence there remains a danger of another fire, damaging property and putting fire department resources, including personnel at risk.”*

Staff Analysis: After analyzing the subject property, it has been determined that a special circumstance does apply to the property that does not apply to most other properties within the district. The existing 14,900 square foot building was developed in the 1940’s along the front property line. Additionally, the Infill Overlay (IO) District allows reductions in the required setback to match the existing conditions along the streetscape. The addition of the fence along the front property line would maintain the existing character of the neighborhood. However, in the Light Industrial (L-I) District, no materials shall be stored in such manner as to project or be visible above the wall or fence when viewed from any public street right-of-way and shall be enclosed by a solid wall.

B) *“The special circumstance was not created or caused by the property owner or applicant.”*

Is this statement correct for this application?

☒ Yes

☐ No

Applicant Response: *“The special circumstance was not created by our Company as all other fencing in the area is already on their property lines.”*

Staff Analysis: The special circumstance was not created or caused by the property owner. The property was developed under Yuma County’s jurisdiction, which permitted the addition of a warehouse and storage yard along the front property line. The proposed fence will be in line with the existing warehouse.

C) *“The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”*

Is this statement correct for this application?

☒ Yes

☐ No

Applicant Response: *“Having the fence will help protect the neighborhood from another fire in the future.”*

Staff Analysis: The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations. The granting of the variance will allow a fence along the front property line, similar to those which currently exist within the area. Adding the fence with a 20’ setback would create an unusable area on this property.

D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”

Is this statement correct for this application?

☒ Yes ☐ No

Applicant Response: “The fence will not be detrimental to the neighborhood for the reasons stated above.”

Staff Analysis: The granting of this variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety and general welfare. The proposed fence along the property line will not create visibility issues. The applicant is proposing a fence along the front property line to prevent trespassing and ensure the protection of the general public.

2. Are any of the adjacent property owners opposed to this request? No.

Public Comments Received: None Received.

External Agency Comments: See attached.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: March 30, 2021

Final staff report delivered to applicant on: April 1, 2021

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Applicant agreed with all of the conditions of approval on: March 31, 2021 |
| <input type="checkbox"/> | Applicant did not agree with the following conditions of approval: (list #'s) |
| <input type="checkbox"/> | (If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.) |

Attachments

A	B	C	D	E	F	G
Conditions of Approval	Site Plan	Agency Notifications	Agency Comments	Site Photos	Vicinity Map	Aerial Photo

Prepared By:Amelia Griffin
Associate Planner**Date:**

3/31/21

Amelia.Griffin@yumaaz.gov (928)373-5000, x3034

Approved By:Alyssa Linville,
Assistant Director Community Development**Date:**

04/01/2021

ATTACHMENT A
CONDITIONS OF APPROVAL

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

**Department Of Community Development Comments: Alyssa Linville, Assistant Director
Community Development, (928) 373-5000 x 3037:**

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.
3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.

Fire Department: Kayla Franklin, Fire Marshal (928) 373-4865

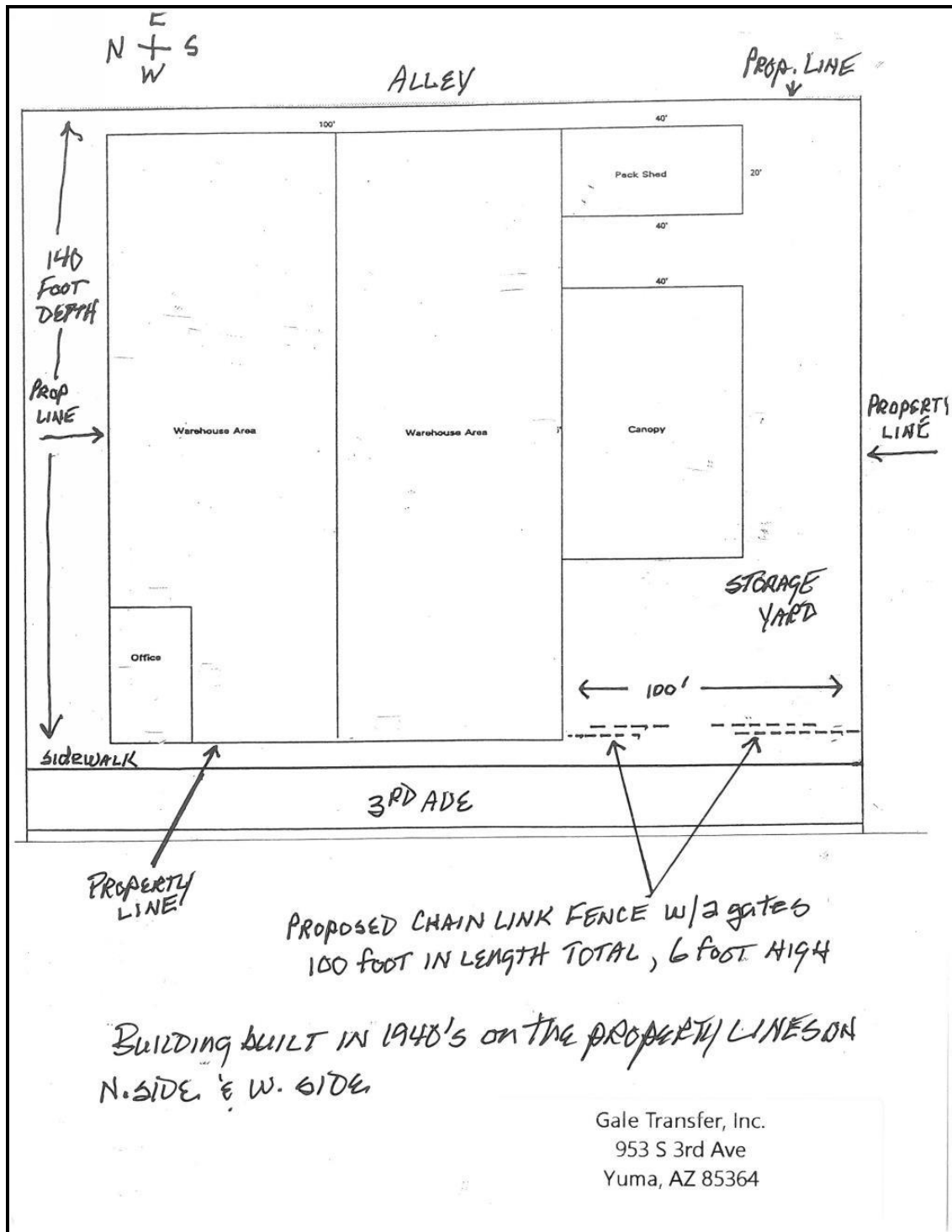
4. Outside storage of combustible materials shall not be located within 10' of property line. The separation distance shall be allowed to be reduced to 3' for storage not exceeding 6' in height. Combustible storage in the open shall not exceed 20' in height.

Community Planning: Amelia Griffin, Associate Planner, (928) 373-5000 x3034

5. Fence shall be a solid wall consisting of wood, masonry, metal, or other exterior material customarily used in wall or fence construction, without openings in the material or spaces between members, other than gates for necessary walks and driveways.
6. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
7. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
8. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B SITE PLAN



ATTACHMENT C

AGENCY NOTIFICATIONS

- Legal Ad Published: The Sun (03/19/21)
- 300' Vicinity Mailing: (03/10/21)
- Site Posted on: (04/01/21)
- 34 Commenting/Reviewing Agencies Noticed: (03/10/21)
- Neighborhood Meeting Date: (N/A)
- Hearing Date: (04/08/21)
- Comments Due: (03/22/21)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	3/11/21	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	3/10/21	X		
Yuma County Planning & Zoning	YES	3/12/21			X
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	3/10/21	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	YES	3/10/21	X		
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	3/11/21	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES			X	
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	3/22/21	x		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
AGENCY COMMENTS

☒ COMMENT ☐ NO COMMENT

Enter comments below:

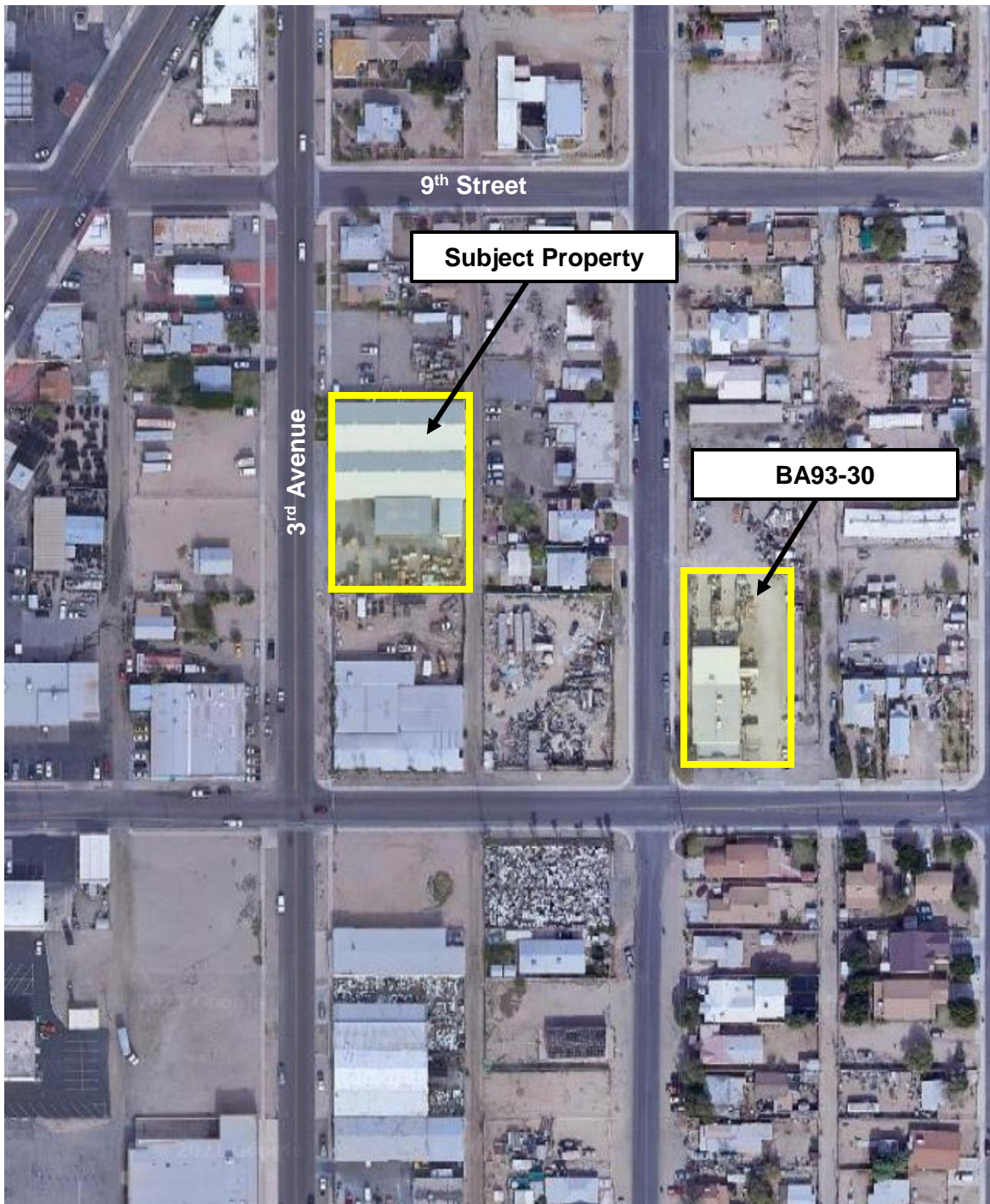
In Yuma County, fences are allowed on the front property line as long the height is not more than 6 feet and the upper 3 feet is 80 percent transparent.

DATE: 03-12-2021 NAME: Javier Barraza TITLE: Senior Planner
AGENCY: Yuma County, DDS, Planning & Zoning Division
PHONE: (928) 817-5000
RETURN TO: Amelia Griffin
 Amelia.Griffin@YumaAZ.gov

ATTACHMENT E
SITE PHOTOS



**ATTACHMENT F
VICINITY MAP**



ATTACHMENT G
AERIAL PHOTO

